

**106 KAR 1:101. Kentucky Emergency Response Commission (KERC) fee account grant requirements for state agencies.**

RELATES TO: KRS 39E.050, 39E.230

STATUTORY AUTHORITY: KRS 39E.040(3), (6), 39E.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39E.040(3) requires the KERC to develop reporting requirements and procedures for individuals, businesses, and governmental agencies that manufacture, use, store, or transport hazardous substances. KRS 39E.040(6) requires the commission to recommend administrative regulations to the director for issuance by the Division of Emergency Management to implement KRS Chapter 39E. This administrative regulation establishes criteria and procedures to be met by state agencies requesting funds generated by KRS 39E.050.

Section 1. Eligibility of State Agencies. State agencies that perform functions to assist the KERC in the administration of its programs and activities at the state level shall be eligible to apply for funding.

Section 2. State Agency Procedures. (1) State agencies that apply for financial assistance shall apply by completing an LEPC Grant Application (KERC Form: 101-GA, incorporated by reference in 106 KAR 1:091) and shall include an LEPC Detailed Budget (KERC Form: 102-DB, incorporated by reference in 106 KAR 1:091) identifying how the requested funds are to be spent.

(2) State agencies may request funding for staff to support the commission in the administration of its programs and activities at the state level. If a request for staff is included in the grant request, the state agencies shall attach a position description detailing job duties and an organization chart defining that position within the agency.

(3) The Grant Application and Detailed Budget shall be submitted to the KERC program manager no later than April 30.

(4) The KERC program manager shall review the Grant Application and Detailed Budget submissions for completeness and conformance to KRS Chapter 39E and KAR Title 106, note any recommendations, and forward them to the Grant Review Committee no later than May 31.

(5) The Grant Review Committee, with a quorum present, shall review all grant requests from state agencies and forward committee recommendations to the KERC for final approval.

(6) The KERC shall make the grant awards no later than July 30.

(7) The chairman of the KERC, or designee, or the Grant Review Committee may request additional information, which shall be provided by the state agency. Failure to provide the requested information shall invalidate the state agency's request for funding.

Section 3. Requests for Modifications. (1) A request for modification of a grant award shall be required if there is a change in the grant request or if a state agency is unable to expend the funds for which the grant was awarded.

(a) A request for modification shall be submitted by the state agency for approval or denial by the commission using LEPC Detailed Budget, KERC Form 102-DB (106 KAR 1:091. Kentucky Emergency Response Commission fee account grant requirements for Local Emergency Planning Committees, Section 4. Requests for Modifications.).

(b) Unexpended monies shall be returned to the KERC fee account fund annually at the expiration of the current year grant cycle.

(2) Requests for modifications of grant awards shall be submitted on an LEPC Detailed

Budget (KERC Form: 102-DB, incorporated by reference in 106 KAR 1:091) and, except for due dates, shall be processed in accordance with Sections 2 and 4 of this administrative regulation. Requests for modifications may be submitted throughout the grant period.

Section 4. Requirements for Funding Accountability. (1) Funds provided by the KERC shall be subject to fiscal accountability prescribed by the state auditor of public accounts.

(a) A Memorandum of Agreement (MOA) between the state agency making application and the Chairman of the KERC shall be executed.

(b) All funds shall be subject to audit by the KERC and the state auditor of public accounts.

(2) Grant awards approved by the KERC may be withheld for:

(a) Noncompliance with KRS 39E.050;

(b) Noncompliance with this administrative regulation; or

(c) Failure to provide required documentation.

(3) All funding allocation decisions shall be made by the KERC and shall be dependent upon availability of fees collected. (18 Ky.R. 1717; eff. 1-27-1992; 43 Ky.R. 1229, 1524; eff. 3-31-2017; 45 Ky.R. 2750; eff. 5-31-2019.)